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ADDITIONAL PROTOCOL ON CONSULAR FUNCTIONS TO THE VIENNA CONVENTION ON CONSULAR RELATIONS

Report of the Secretary-General

Addendum

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* A/47/150.

AUSTRIA

[Original: English]

[13 July 1992]

1. During the forty-fifth and forty-sixth sessions of the General Assembly, the Sixth Committee considered a joint proposal of Austria and Czechoslovakia, namely the idea of elaborating an additional protocol on consular functions to the Vienna Convention on Consular Relations. Very valuable observations were made and interesting ideas were put forward by a number of delegations in the course of the debate in the Sixth Committee and in written comments.

2. The Vienna Convention on Consular Relations of 24 April 1963 is one of the most important international instruments emanating from the work of the International Law Commission. The Convention has codified international consular law and, at the same time, progressively developed it. While the Convention has proven its value over the years, an analysis of its rules, however, shows that the Convention mainly concentrates on consular privileges and immunities while lacking detailed rules relating to consular functions. Article 5 of the Vienna Convention - a non-exhaustive enumeration of the most important consular functions recognized by international law, by way of example - is characterized by a certain lack of precision.

3. For that reason, Austria and Czechoslovakia have taken a joint initiative with the aim to supplementing and specifying the provisions of the Vienna Convention on Consular Functions by an additional protocol thereto dealing with consular relations. The co-sponsors were particularly pleased hearing a number of delegations to the Sixth Committee express the view that efforts aiming at supplementing and specifying the provisions of the Vienna Convention on Consular Relations relating to consular functions at a multilateral level are a useful exercise and could help to fill a lacuna in this field.

4. In the interest of the progressive development of international law, an internationally agreed, more specific definition of the scope of consular functions could, indeed, contribute to a universal application of the relevant rules.

5. It has been underlined, in the course of the debate in the Sixth Committee, that a number of States parties to the Vienna Convention have concluded bilateral consular agreements that describe in more detail the functions listed in the Convention. It has to be recognized that a bilateral approach provides a certain amount of flexibility to reflect the specific needs of the two countries concerned. It is, however, obvious that a bilateral approach has objective limits. No State is in a position bilaterally to regulate consular functions with all other members of the international community. A multilateral framework - in the form of an optional protocol - would be useful to those countries who would prefer a multilateral instrument to a multitude of bilateral agreements.

6. A certain number of countries have also underlined that they would not favour too precise a specification of consular functions and that problems could arise if rules contained in a possible new instrument were too detailed. It has never been the intention of the co-authors of the draft additional protocol to regulate each and every detail. Customary international law would continue to govern the questions that are not expressly dealt with in a possible new instrument.

7. Austria holds the view that in the light of the different remarks and comments made, the question of an optional protocol to the Vienna Convention on Consular Relations should be carefully studied in the Sixth Committee during the informal consultations to be held in accordance with General Assembly resolution 46/61 of 9 December 1991. In the course of these informal consultations, all interested delegations could thoroughly consider the questions of substance raised in the Austrian-Czechoslovak proposal and the different comments and suggestions made in the debate and in written form, some of which were quite detailed. These consultations should be guided with a view to elaborating a concrete proposal for an optional protocol. Austria will spare no effort to contribute to a fruitful outcome of these deliberations.

BELARUS

[Original: Russian]

[17 July 1992]

1. The Republic of Belarus is generally in favour of the joint initiative of the Republic of Austria and the Czech and Slovak Federal Republic concerning the preparation and adoption by the United Nations of an additional protocol on consular functions to the Vienna Convention on Consular Relations of 24 April 1963.

2. Belarus, as a party to the Vienna Convention since 1989, notes its importance as a universal international instrument for the regulation of consular relations between States. Nevertheless, it seems appropriate and timely to consolidate all the constructive elements of the practical performance of consular functions in a separate international legal instrument which would supplement and develop the provisions of the Vienna Convention. In this connection it should be stated, in the first place, that, for a number of reasons, not all States are in a position to conclude bilateral agreements on consular relations containing such elements and the proposed protocol would afford them a useful juridical basis conducive to the improvement of consular practice in the light of modern circumstances and requirements which differ in certain respects from those which obtained at the time when the Vienna Convention was prepared.

3. On the basis of the above considerations, the Republic of Belarus supports the proposal to establish, within the framework of the Sixth Committee of the General Assembly, an appropriate organ to coordinate the positions of States with regard to an additional protocol on consular functions and to work out a mutually acceptable wording of its text on the basis of the draft submitted by Austria and Czechoslovakia and with due regard also to the observations already made on it by a number of States. The subsequent adoption by the General Assembly of the final text of the protocol thus worked out might make a substantial contribution to the holding of the United Nations Decade of International Law.

4. The delegation of the Republic of Belarus to the Sixth Committee proposes to participate in the work on the draft additional protocol in the course of which it intends, where necessary, to make practical proposals concerning its text.